

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA, ex rel. C. DUSTIN BECHTOLD, M.D. and BRYAN WELLMAN, M.D., Plaintiff/Relators, v. WILSON ASFORA, M.D., MEDICAL DESIGNS, LLC, and SICAGE, LLC, Defendants.	4:16-cv-04115-LLP ORDER SCHEDULING MEDIATION
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TO ALL PARTIES AND COUNSEL OF RECORD:

The parties have indicated their desire to have a settlement conference with the court. This order is to notify you that said settlement conference has been scheduled via video for **January 21, 2021, at 9:00 a.m.** Pursuant to the parties' request for a settlement conference, it is hereby

ORDERED that the meeting software approved by the Administrative Office for official court use, Cisco, shall be used for this mediation. As the parties opt to use the court's Cisco meeting format, the court will set up the meeting, distribute instructions as to how to join and provide IT support. It is further

ORDERED that the attorneys who will try the case shall appear by video at the settlement conference. Insurance adjusters and the parties having full authority to evaluate, negotiate, and settle the case on any terms shall also attend by video. A party other than a natural person (e.g., a corporation or an

association) satisfies the attendance requirement if it sends a representative who possesses authority to settle. A party that is a government or governmental agency shall send a representative with settlement authority or, alternatively, a representative who is knowledgeable about the facts of the case and will play a major role in submitting a recommendation to the person or body with decision-making authority. Relators, who sued in the name of the government, may but are not required to attend by video, although their counsel shall attend by video. Further, any subrogated interests must be contacted prior to the settlement conference and have submitted, in writing, their position on negotiation of their claim. An authorized representative of any and all subrogated interests shall be available, either by video or by telephone, during the settlement conference. It is further

ORDERED that the attorneys shall exchange certain relevant information, agreed upon by the parties, prior to the date on which the settlement conference is scheduled to assist good faith settlement discussions. It is further

ORDERED that by **3:00 p.m. on December 31, 2020**, each party shall deliver to the undersigned magistrate judge by e-mail a confidential settlement conference statement, which may not be filed with the Clerk of Courts, nor served upon the other party.

The confidential settlement conference statement shall include the following:

1. A brief statement of the facts of the case;

2. A brief statement of the claims and defenses, including a forthright evaluation of the parties' likelihood of prevailing on the claims and defenses, and a description of the major issues in dispute;
3. An estimate of the cost and time to be expended for trial;
4. The relief sought;
5. The party's position on settlement, including present demands and offers and history of past settlement discussions, offers, and demands; and
6. Any other evidence, including depositions or trial exhibits that counsel believe would be useful to the magistrate judge in analyzing the case.

Any failure by the trial attorneys, parties, or persons with authority to settle to attend the conference as specified above will result in sanctions to include fees and costs expended by the other party in preparing for and attending the conference. Failure to timely deliver a confidential settlement conference statement may result in sanctions.

The lawyers shall also advise the court whether their clients will be appearing at the same location as the lawyers so that all video connections may be tested prior to the mediation if desired. Separate instructions for that test will be sent closer to the mediation date.

DATED December 18, 2020.

BY THE COURT:



VERONICA L. DUFFY
United States Magistrate Judge